

August 2, 2001



Magalie Roman Salas  
Secretary  
Federal Communications Commission  
TW-A325  
445 Twelfth St., SW  
Washington DC 20554

Re: *Ex Parte* presentation in MM Docket 99-25

Dear Ms. Salas:

Today Andrew Jay Schwartzman and I met with K. Dane Snowden, Margaret M. Egler, and Thomas White of the Consumer Information Bureau. We discussed general issues with respect to the functions of the Bureau.

In addition, I encouraged the Bureau to become more involved with low power radio, which is considered in the above-captioned docket. I provided a copy of the Petition for Reconsideration filed in that docket by Media Access Project on behalf of UCC, *et al.* I explained that the Commission should provide more information generally about low power radio and specifically to low power radio applicants. Lack of information makes it difficult for applicants to plan and maintain enthusiasm of volunteers. This could eventually lead some applicants to lose the ability to utilize their construction permits once they are finally issued. Moreover, lack of information makes applicants and others vulnerable to fraudulent solicitations. I provided copies of solicitations members of the public and applicants received that I believe to be fraudulent. These are attached.

Pursuant to Section 1.1206(b), 47 C.F.R. §1.1206, this letter and its attachments are being filed electronically with your office today.

Sincerely,

Cheryl A. Leanza  
Deputy Director

cc: K. Dane Snowden  
Margaret M. Egler  
Thomas White  
(w/o attachments)

## **SAMPLES OF FRAUDULENT ACTIVITY DIRECTED TOWARD**

## **LOW POWER RADIO APPLICANTS**

>>Message-ID: <009601c0cef5\$951ba460\$f6fc1918@hawaii.rr.com>

>>From: zoebroadcasting@hawaii.rr.com

>>Reply-To: zoebroadcasting@hawaii.rr.com

>>To:

\* \* \* \*

>>Subject: New FCC LPFM Alternative!

>>Date: Fri, 27 Apr 2001 01:39:31 -0700

>>MIME-Version: 1.0

>>X-Mailer: Internet Mail Service (5.5.2653.19)

>>Content-Type: multipart/mixed;

>> boundary="----\_=\_NextPart\_002\_01C0CF7E.DD0F4BD0"

>>To:

>>Subject:

>>Date: Fri, 27 Apr 2001 17:54:50 -0700

>>MIME-Version: 1.0

>>X-Mailer: Internet Mail Service (5.5.2653.19)

>>Content-Type: multipart/mixed;

>> boundary="----\_=\_NextPart\_004\_01C0CF7E.DD0F4BD0"

>>

>>May 1, 2001

>>TO: Future FM Radio Broadcasters

>>

>>FR: T.J. Malievsky, President

>>CO: Zoe Broadcasting LLC.

>>RE: Community Low-Power FM Radio Station

>>

>>(DOES NOT REQUIRE AN FCC LICENSE)

>>

>>Greetings! I am writing you today to share a little information about new

>>digital FM technology that my company is making available for the first time

>>that will allow you to be on the air with your own Community Low-Power FM

>>Radio Station in a matter of days. Please let me explain:

>>

>>The Radio Tour DGX 1051 LPFM Radio Station is a digital FM transmitter that

>>can meet the broadcast needs of your non-profit or for-profit organization

>>without the expense of building and operating a licensed radio station. Our

>>state of the art DGX 1051 LPFM is equipped with digital technology that can

>>meet your need for a community FM Radio Station or expand your coverage area

>>if you are already on the air. You will OWN a Low-Power FM Radio Station!

>>

>>YOU DON'T NEED AN FCC LICENSE! The DGX 1051 LPFM technology is already

>>approved by the FCC under PART 15 and does not require an FCC license to own

>>or operate. Radio Tour's DGX 1051 Low-Power FM Radio Station is already

>>registered with the FCC (not to any individual or organization). All you  
>>need to do to OWN an FM Radio Station is to order the DGX 1051 LPFM from us  
>>and you'll be on the air and broadcasting the same day you receive it! Zoe  
>>Broadcasting LLC. is the exclusive distributor of the patented Radio Tour  
>>LPFM. Radio Tour can deliver the quality and broadcast reach with RT  
>>networking you need for your community LPFM Radio Station. Perfect for  
>>Site-Broadcasting from churches, school campuses, shopping malls, museums,  
>>zoo's, community centers, national monuments, attractions, etc...

>>

>>Consider the LARGE cash investment required to build and operate an FCC  
>>licensed radio station. These costs can quickly add up into the ten's of  
>>thousands of dollars. The DGX 1051 LPFM will offer your organization an  
>>affordable way to own and operate your own DIGITAL FM radio transmitter! We  
>>can provide you with an approved FCC low-power FM transmitter for only \$9499  
>>(Special non-profit pricing available). It can be commercial or  
>>non-commercial.

>>

>>Lastly, we do not want to promise anything we can not deliver. We are  
>>limited on the available number of DGX systems we have in stock, ready for  
>>delivery today. Once we sell out, it will take 9-12 months to produce more  
>>DGX 1051 LPFM's. That's our time-line from our manufacturer and we're stuck  
>>with it. To see a picture of the unit itself, just open the attachment to  
>>this e mail. You will be amazed at how simple this system is to set up and  
>>operate.

>>

>>Thank you in advance for considering Zoe's digital FM low-power radio  
>>station for your organizations broadcast needs. Please call or email us  
>>today and we will send you a flyer on the DGX 1051 LPFM radio station. For  
>>now, just click on the e mail attachment to see the unit!

>>

>>"The Radio Tour DGX 1051 Digital Low-Power FM Radio Station is already FCC  
>>approved under Part 15! Most people do not know it exists."

>>CONTACT

>>

>>Corporate Office: T.J. Malievsky / 1 Heatherwood, Aliso Viejo, CA 92656

>>

>>Ph: (949) 831-8685 Fx: (949) 215-1541

>>Email: 110224.1126@compuserve.com <mailto:110224.1126@compuserve.com>

>>South Pacific Office: Scott M. Hogle / 2314 Armstrong Street, Honolulu, HI  
>>96822

>>Ph: (808) 988-8704, Fx: (808) 988-7942

>>Email: zoebroadcasting@hawaii.rr.com

>><mailto:zoeinternational@hawaii.rr.com>

>>

>>Attachment converted: Macintosh HD:header.htm (TEXT/MSIE) (0000BD7A)  
>>Attachment converted: Macintosh HD:DIGITALLPFM.doc (WDBN/MSWD)  
(0000BD7B)

>Making Waves:

>

>Shyster Alert!

>

>Low Power FM applicants are starting to get bombarded with  
>advertisements for products and services. Some of these are helpful,  
>in the sense that advertising (as it was originally conceived) can  
>help to inform consumers of the going rates for purchasing various  
>equipment and services.

>

>Unfortunately, I have also seen some seriously fallacious claims  
>being made in the past week or so and would like to set the record  
>straight on some things.

>

>Part 15, FM or AM:

>Any product that you see that says "no license needed." or "part 15  
>FCC accepted" is not something that is worth pursuing. I have yet to  
>see a single part 15 transmitter that carries more than two blocks  
>in an urban (or even a small town } environment. I have checked out  
>a number of these and i have not seen one that works up to the  
>product claims yet. a part 15 radio station is a fun toy, but I  
>would not pay more than a few bucks for one and it is fun for  
>informational purposes only- not for broadcasting. I have seen some  
>people spend some serious money on these things and the fact is  
>this- they are not practical for broadcasting, except under very  
>specific circumstances. \$9000 is about 900 times what one of these  
>things is worth.

>

>Engineers:

>I have also seen, this past week, mass emails from engineering firms  
>making statements to the effect that " We have special information  
>that Your application will be denied, you need professional help  
>now." They even sent this to the people who had already received  
>their construction permit!

>

>There are a number of applications that are now in limbo because  
>congress changed the rules by which LPFMs are allocated. There will  
>probably be a short window of time in the next month or two when you  
>can make an amendment, which has the potential to "cure" an  
>application that would have been derailed by the act of Congress.

>Making an amendment is not much different than filing your initial  
>application. Using the FCC channel finder, you can determine whether  
>there is a place in your town that you can move your transmitter  
>site to, allowing you to amend your application and meet the new  
>restrictions. An engineer can certainly help in this process, and  
>can help prevent you from making some foolish mistakes. But whether  
>you hire an engineer or not, you will have to do most of the work in  
>finding a location that is acceptable to the FCC. If you are so  
>inclined, you can do the work yourself.

>

>Prometheus, as always, is willing to work through this process with  
>you for free- and we can help you assess whether it is a relatively  
>simple matter or whether you need professional assistance. We have  
>software that can crawl through your town and figure out which areas  
>have available frequencies- You may need an engineer, but try us  
>first. If the channel finder and our tool don't work for you, you  
>may need to break open the piggy bank and shell out for a pro  
>engineer- don't give up just because the channel finder doesn't spit  
>a good location right out at you. An engineer can sometimes save  
>your application for as little as a few hundred bucks. Use the same  
>discretion and consumer habits you use when getting repairs done on  
>a car or choosing a cure for baldness- don't let anyone scare you  
>into anything.

>

>We remind you that we are happy to "proof read" any applications and  
>look for errors. Many people did make silly mistakes on their  
>applications (as did at least one professional engineer I heard  
>about). It can be really difficult to fix errors once they've been  
>made- so please have us check your work...

>

>

>pete tridish

Return-path: <Aspake@aol.com>  
From: Aspake@aol.com  
Full-name: Aspake  
Message-ID: <4c.146c6c47.281ed45e@aol.com>  
Date: Mon, 30 Apr 2001 10:44:46 EDT  
Subject: Fwd: URGENT INFO ABOUT YOUR LPFM  
APPLICATION  
To: Skipjack3244@aol.com  
MIME-Version: 1.0  
Content-Type: multipart/mixed;  
boundary="part2\_41.acfb365.281ed45e\_boundary"  
X-Mailer: AOL 5.0 for Windows sub 124

Return-Path: <sales@mbcradio.org>  
Received: from rly-yh03.mx.aol.com (rly-yh03.mail.aol.com  
[172.18.147.35]) by air-yh01.mail.aol.com (v77\_r1.36) with ESMTP;  
Fri, 27 Apr 2001 17:47:31 2000  
Received: from postoffice2.direcpc.com (mail.direcpc.com  
[198.77.116.30]) by rly-yh03.mx.aol.com (v77\_r1.36) with ESMTP;  
Fri, 27 Apr 2001 17:47:04 -0400  
Received: from leo ([207.168.132.130]) by postoffice2.direcpc.com  
(Post.Office MTA v3.1.2 release (PO203-101c)  
ID# 0-45425U50000L50000S0) with SMTP id AAA5236;  
Fri, 27 Apr 2001 17:10:10 -0400  
From: "Broadcast Solutions" <sales@mbcradio.org>  
To: "." <mbcradio@hotmail.com>  
Subject: URGENT INFO ABOUT YOUR LPFM APPLICATION  
Date: Fri, 27 Apr 2001 16:05:18 -0500  
Message-ID:  
<GJEAJAALKIIMLFICENHBGEAKCEAA.sales@mbcradio.org>  
MIME-Version: 1.0  
Content-Type: text/plain;  
charset="iso-8859-1"  
Content-Transfer-Encoding: 7bit  
X-Priority: 3 (Normal)  
X-MSMail-Priority: Normal  
X-Mailer: Microsoft Outlook IMO, Build 9.0.2416 (9.0.2910.0)  
Importance: Normal  
X-MimeOLE: Produced By Microsoft MimeOLE V5.50.4133.2400

Hello,

I am writing to advise you that the Federal Communications Commission has determined that your Low Power FM Application will be rejected making you unable to receive your Broadcasting license.

The FCC will however, allow for you to make major modifications to your application's technical portion during a window to be opened during the early summer. Previously filed amendments will not be accepted. You need professional assistance at this stage. Any mistakes or non-action on your part at this point WILL be fatal to your application.

Our firm has a solution using technology not available at the FCC including an assessment of other modifications in your area that will effect you.

Please contact us immediately. We can help save your new station.

Reply to this email or call me directly:

Leo Ashcraft  
800-219-7461

Best Regards,

Leo Ashcraft  
MBC Consulting  
Broadcast Solutions  
<http://www.mbcradio.org>

Start your own LPFM Station LEGALLY, just \$748  
<http://www.mbcradio.org>

New LPFM & NCE Antenna Bays, \$149 each.  
<http://www.mbcradio.org>



----- Original Message -----

From: "Bryan French" <bryan27@yahoo.com>

To: <microradioproject@earthlink.net>

Sent: Friday, July 27, 2001 5:42 PM

Subject: Consultant Warning Article

> Dear MicroRadio Project,

>

> I wanted to let you know that I have received a Letter

> from LifeStyles Research Company (today actually).

> Although ours was one of the fortunate applications

> not to be MX, what we received from them was

> disturbing, and nothing but lies to scare LPFM

> applicants into buying their services:

>

> "When the FCC created the new opportunity for 100 watt

> radio stations, they failed to tell you all the rules

> you would have to follow, rules that if not adhered to

> could get you in trouble with them..."

>

> "With your paid subscription I'll send you a copy of

> 'Ten FCC Rules You Can't Even Bend'."

>

> I do hope that no applicant will be taken in by these

> ploys, as I have seen all the FCC LPFM Rules, there is

> nothing that the FCC isn't telling everyone, and I was

> under the impression that NO FCC rule could bend

> unless the FCC issues a clarification on the rule.

>

> I want to thank you for posting the Warning on your

> website. I have directed readers of an LPFM Forum that

> I belong to, to also read the warning on your site.

>

> Rabbi Bryan K. French

> Kol Ami Havurah

> Benwood, WV

>

----- Original Message -----

From: Erik Nicholson

To: mike@brownbroadcast.com ; microradioproject@ucc.org

Sent: Tuesday, July 17, 2001 9:44 AM

Subject: LPFM

I thought you might find this email of interest. LPFM seems to have unleashed somewhat of a feeding frenzy. FYI, the other organization that applied for the LPFM license and us have agreed to share the license if we get it....

Erik Nicholson

PCUN

Mr. Nicholson:

Recently I sent you a letter that concerned the LPFM Times. In that letter I neglected to inform you that another applicant has also filed for the same frequency, that you applied for, 96.3 Mhz in Woodburn, OR.

The FCC has established a procedure for dealing with such conflicts, however you must take action now if you want to preserve your opportunity to operate on that frequency.

If you want to know more about your options, call me at (707) 464-9263 or e-mail me at the above address.

If you do nothing, you will not receive an FCC Construction Permit.

Bob Berkowitz

>> --- The Microradio Implementation Project  
>> <microradioproject@earthlink.net> wrote:  
>> >  
>> > Mr. Berkowitz,  
>> >  
>> > I represent a nonprofit agency in Portland, Oregon,  
>> > established by the United Church of Christ to help  
>> > community groups across the nation apply for LPFM  
>> > frequencies. It has recently come to our attention  
>> > that your company has been contacting recent LPFM  
>> > applicants in mutually exclusive situations and  
>> > telling them that if they do not "take action now,"  
>> > they will not receive an FCC Construction Permit.  
>> > You offer to resolve these mutually exclusive  
>> > situations for a fee.  
>> >  
>> > You are distributing false information, and offering  
>> > a service that is unnecessary and fraudulent. While  
>> > it would be advantageous for mutually exclusive  
>> > groups to begin to build up relationships now and  
>> > begin to work cooperatively, they do not need to  
>> > work out formal agreements with the FCC or each  
>> > other until notified by the FCC to do so; at that  
>> > point, they will have thirty days to work out that  
>> > agreement. Opening up a discussion with other  
>> > community groups who have applied for the same  
>> > frequency is not something that any community group  
>> > needs to pay another organization to do, and you  
>> > cannot guarantee any results with your "service": it  
>> > will be wholly up the discretion of the FCC to  
>> > decide how to award Construction Permits.  
>> >  
>> > I have filed complaints with the Consumer Fraud  
>> > departments of the Attorney General's Offices in  
>> > both California and Oregon, and with the Federal  
>> > Communications Commission. If you do not cease with  
>> > your fraudulent business offers, I will additionally  
>> > file a mail fraud complaint with the United States  
>> > Post Office.  
>> >  
>> > Orion Gray  
>> > Associate Director  
>> > Microradio Implementation Project  
>> > 633 SW Montgomery St

>> > Portland, OR 97201  
>> > www.microradio.org  
>> > microradioproject@earthlink.net  
>> > (877) 468 8884 outside of Oregon  
>> > (503) 226 9036

>----- Original Message -----

>From: "Bob Berkowitz" <bberkowitz@yahoo.com>

>To: "The Microradio Implementation Project"

><microradioproject@earthlink.net>

>Sent: Thursday, July 19, 2001 5:35 PM

>Subject: Re: LPFM

>

>

>> Mr. Gray:

>>

>> I want to say I take your e-mail very seriously. We  
>> have concluded that some might think that the we would  
>> only perform this service you alude to for a fee,  
>> therefore we will clarify the situation to all those  
>> we have e-mailed the previous notice to, that we will  
>> provide written material on resolving mutually  
>> exclusivity problems for free. There will be no fee  
>> for this service.

>>

>> Bob Berkowitz

>>